



New York State Board for Professional Medical Conduct

433 River Street, Suite 303 Troy, New York 12180-2299 • (518) 402-0863

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Ansel R. Marks, M.D., J.D.

Executive Secretary

February 16, 2000

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

William J. Touchstone, M.D.
4673 Brickyard Falls Road
Manlius, NY 13104

RE: License No. 129071

Dear Dr. Touchstone:

Enclosed please find Order #BPMC 98-265a of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect **February 16, 2000**.

If the penalty imposed by the Order is a surrender, revocation or suspension of this license, you are required to deliver to the Board the license and registration within five (5) days of receipt of the Order to Board for Professional Medical Conduct, New York State Department of Health, Hedley Park Place, Suite 303, 433 River Street, Troy, New York 12180.

Sincerely,

Ansel R. Marks, M.D., J.D.
Executive Secretary
Board for Professional Medical Conduct

Enclosure

cc: Catherine A. Gale, Esq.
Gale & Dancks, LLC
7136 E. Genesee Street
PO Box 97
Fayetteville, NY 13006-0097

William J. Lynch, Esq.

STATE OF NEW YORK : DEPARTMENT OF HEALTH
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

-----X
IN THE MATTER : VOLUNTARY
OF : AGREEMENT
WILLIAM JOSEPH TOUCHSTONE, M.D. : TO
: MODIFY PRIOR
: CONSENT
: ORDER
-----X BPMC #98-265a

WILLIAM JOSEPH TOUCHSTONE, M.D. (Respondent), says:

1. I was licensed to practice as a physician in New York State on October 15, 1976, having been issued license number 129071 by the New York State Education Department. I am currently registered to practice as a physician in New York State for the period through January 31, 2001 with a registration address of 4673 Brickyard Falls Road, Manlius, New York 13104.
2. I am currently subject to Order number BPMC 98-265, effective on November 13, 1998, a copy of which is attached hereto, made a part hereof, marked as "Exhibit A" and hereafter referred to as "Prior Consent Order."
3. I hereby apply for this Voluntary Agreement to Modify the Prior Consent Order [hereafter "Voluntary Agreement"], as is specifically set forth herein.
4. I understand that this Voluntary Agreement will not constitute a new disciplinary action against me. However, I

understand and agree that the New York State Department of Health Office of Professional Medical Conduct [hereafter "OPMC"] shall give written notification of this Voluntary Agreement to the Cayuga County Mental Health Center.

5. I understand and agree that the terms, conditions and requirements of the Prior Consent Order are still in effect except as modified by this Voluntary Agreement or except as to those matters in which this Voluntary Agreement imposes more stringent terms, conditions or requirements upon me.
6. I understand and agree that I may only prescribe or dispense medication to patients of Cayuga County Mental Health Center, and I am precluded from prescribing or dispensing medications to myself, my family, close associates or friends.
7. I understand and agree that the health care professionals monitoring my practice (sobriety monitor, practice supervisor, and therapist) previously approved by OPMC pursuant to the prior Consent Order may be reviewed and revised as required by the Director of OPMC.
8. I understand and agree to comply with all terms, conditions, restrictions and limitations to which I am subject pursuant to this Voluntary Agreement and to the Prior Consent Order. I shall assume and bear all costs related to compliance, including all expenses associated with sobriety, therapy and practice monitoring.

9. I understand and agree that this Voluntary Agreement shall have the same force and effect as an Order issued by the Board for Professional Medical Conduct. Upon receipt of evidence of noncompliance with or any violation of this Voluntary Agreement or the Prior Consent Order, the Director of OPMC and/or the Board for Professional Medical Conduct may initiate a violation of probation proceeding and/or any other proceeding as may be authorized by law.
10. This Voluntary Agreement shall take effect upon issuance by the Board, which may be accomplished by mailing, by first class mail, a copy of the Voluntary Agreement to Respondent at the address set forth in this agreement or to Respondent's attorney by certified mail, or upon transmission via facsimile to Respondent or Respondent's attorney, whichever is earliest.
11. I hereby make this application and request that it be granted. I understand that in the event that this application is not agreed to and approved, nothing contained herein shall be binding upon me or construed to be an admission of any act of misconduct alleged or charged against me.
12. I am making this application of my own free will and accord and not under duress, compulsion or restraint of any kind or manner. In consideration of the approval of this Voluntary Agreement, I fully, freely and with the advice of counsel

waive any right I may have to appeal or otherwise challenge
the validity of this Voluntary Agreement.

AFFIRMED:

Dated: 01-28-00


WILLIAM JOSEPH TOUCHSTONE, M.D.
Respondent

The undersigned agree to and approve the attached Voluntary
Agreement to Modify Prior Consent Order.

DATE: 1/25/00


CATHERINE GALE
Attorney for Respondent

DATE: 2/1/00


WILLIAM J. LYNCH
Senior Attorney
Bureau of Professional Medical
Conduct

DATE: 2/3/00


ANNE F. SAILE
Director
Office of Professional Medical
Conduct

DATE: 2/10/00


WILLIAM P. DILLON, M.D.
Chair
State Board for Professional
Medical Conduct

EXHIBIT A

NEW YORK STATE DEPARTMENT OF HEALTH
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

IN THE MATTER
OF
WILLIAM JOSEPH TOUCHSTONE, M.D.

CONSENT
AGREEMENT
AND
ORDER
BPMC #98-265

WILLIAM JOSEPH TOUCHSTONE, M.D., (Respondent) says:

That on or about October 15, 1976, I was licensed to practice as a physician in the State of New York, having been issued License No. 129071 by the New York State Education Department.

My current address is 4673 Brickyard Falls Road, Manlius, New York 13104, and I will advise the Director of the Office of Professional Medical Conduct of any change of my address.

I understand that the New York State Board for Professional Medical Conduct has charged me with three specifications of professional misconduct.

A copy of the Statement of Charges is annexed hereto, made a part hereof and marked as Exhibit "A". I admit guilt to the third specification contained in the Statement of Charges, and I hereby agree to the following penalty:

1. My license shall be permanently limited in that I shall practice medicine only at the Cayuga County Mental Health Center in Auburn, New York or such other supervised setting approved by the Director of OPMC in accordance with the terms contained in paragraph one of Exhibit "B".
2. My impairment shall be permanently monitored in accordance with the terms contained in paragraphs two through fifteen of Exhibit "B" for so long as I am engaged in the practice of medicine and until such time as I shall permanently retire from medical practice.

I further agree that the Consent Order for which I hereby apply shall impose the following conditions:

That, except during periods of actual suspension, Respondent shall maintain current registration of Respondent's license with the New York State Education Department Division of Professional Licensing Services, and pay all registration fees. This condition shall be in effect beginning thirty days after the effective date of the Consent Order and continuing until the full term of the Order has run, and until any associated period of probation and all probation terms have been completed and satisfied; and that Respondent shall fully cooperate in every respect with the OPMC in its administration and enforcement of this Order and in its investigation of all matters regarding Respondent. Respondent shall respond in a timely manner to each and every request by OPMC to provide written periodic verification of Respondent's compliance with the terms of this Order. Respondent shall meet with a person designated by the Director of OPMC as directed. Respondent shall respond promptly and provide any and all documents and information within Respondent's control upon the direction of OPMC.

I hereby stipulate that any failure by me to comply with such condition shall constitute misconduct as defined by New York State Education Law §6530(29).

I agree that in the event I am charged with professional misconduct in the future, this agreement and order shall be admitted into evidence in that proceeding.

I hereby make this Application to the State Board for Professional Medical Conduct (the Board) and request that it be granted.

I understand that, in the event that this Application is not granted by the Board, nothing contained herein shall be binding upon me or construed to be an admission of any act of misconduct alleged or charged against me, such Application shall not be used against me in any way and shall be kept in strict confidence during the pendency of the professional misconduct disciplinary proceeding; and such denial by the Board shall be made without prejudice to the continuance of any disciplinary proceeding and the final determination by the Board pursuant to the provisions of the Public Health Law.

I agree that, in the event the Board grants my Application, as set forth herein, an order of the Chairperson of the Board shall be issued in accordance with same. I agree that such order shall be effective upon issuance by the Board, which may be accomplished by mailing, by first class mail, a copy of the Consent Order to me at the address set forth in this agreement, or to my attorney or upon transmission via facsimile to me or my attorney, whichever is earliest.

I am making this Application of my own free will and accord and not under duress, compulsion or restraint of any kind or manner. In consideration of the value to me of the acceptance by the Board of this Application, allowing me to resolve this matter without the various risks and burdens of a hearing on the merits, I knowingly waive any right I may have to contest the Consent Order for which I hereby apply, whether administratively or judicially, and ask that the Application be granted.

AFFIRMED:

DATED 10-26-98


WILLIAM JOSEPH TOUCHSTONE, M.D.
RESPONDENT

The undersigned agree to the attached application of the Respondent and to the proposed penalty based on the terms and conditions thereof.

DATE: 10/28/98


WILLIAM J. LYNCH
Senior Attorney
Bureau of Professional
Medical Conduct

DATE: 11/3/98


ANNE F. SAILE
Director
Office of Professional
Medical Conduct

NEW YORK STATE DEPARTMENT OF HEALTH
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

IN THE MATTER
OF

WILLIAM JOSEPH TOUCHSTONE, M.D.

CONSENT
ORDER

Upon the proposed agreement of William Joseph Touchstone, M.D. (Respondent) for Consent Order, which application is made a part hereof, it is agreed to and

ORDERED, that the application and the provisions thereof are hereby adopted and so ORDERED, and it is further

ORDERED, that this order shall be effective upon issuance by the Board, which may be accomplished by mailing, by first class mail, a copy of the Consent Order to Respondent at the address set forth in this agreement or to Respondent's attorney by certified mail, or upon transmission via facsimile to Respondent or Respondent's attorney, whichever is earliest.

SO ORDERED.

DATED: November 5, 1998

Patrick F. Carone, M.D.
PATRICK F. CARONE, M.D., M.P.H.
Chairperson
State Board for Professional
Medical Conduct

EXHIBIT "A"

STATE OF NEW YORK : DEPARTMENT OF HEALTH
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

-----X

IN THE MATTER : STATEMENT
OF : OF
WILLIAM JOSEPH TOUCHSTONE : CHARGES

-----X

WILLIAM JOSEPH TOUCHSTONE, M.D., the Respondent, was authorized to practice medicine in New York State on October 15 1976 by the issuance of license number 129071 by the New York State Education Department. The Respondent is currently registered with the New York State Education Department to practice medicine for the period February 1, 1997, through January 31, 1999, with a registration address of 157 Genesee Street, Auburn, New York 13021.

FACTUAL ALLEGATIONS

A. Respondent provided medical care to Patients A through N [patients are identified in the Appendix] on various occasions between approximately September 1987 and November 1995 at his office at 406 State Tower Bldg., Syracuse, New York.

1. Respondent failed to adequately assess and/or document his assessment of Patients A through N.
2. Respondent failed to adequately treat and/or document his treatment of Patients A through N.

SPECIFICATIONS

FIRST SPECIFICATION

NEGLIGENCE ON MORE THAN ONE OCCASION

Respondent is charged with practicing medicine with negligence on more than one occasion in violation of New York Education Law §6530(3), in that Petitioner charges that Respondent committed two or more of the following:

1. The facts in Paragraphs A and A.1 and/or A and A.2.

SECOND SPECIFICATION

INCOMPETENCE ON MORE THAN ONE OCCASION

Respondent is charged with practicing medicine with incompetence on more than one occasion in violation of New York Education Law §6530(5), in that Petitioner charges that Respondent committed two or more of the following:

2. The facts in Paragraphs A and A.1 and/or A and A.2.

THIRD SPECIFICATION

FAILURE TO MAINTAIN RECORDS

Respondent is charged with professional misconduct under N.Y. Educ. Law §6530(32) by reason of his having failed to maintain a record for each patient which accurately reflects the evaluation and treatment of the patient in that Petitioner charges:

3. The facts in Paragraphs A and A.1 and/or A and A.2.

DATED: *October 28*, 1998
Albany, New York

Peter D. Van Buren
PETER D. VAN BUREN
Deputy Counsel
Bureau of Professional
Medical Conduct

EXHIBIT "B"

1. Respondent shall work only in a supervised setting, such as a facility licensed by New York State, where close practice oversight is available on a daily basis and where quality assurance and risk management protocols are in effect. Respondent shall not practice medicine until the supervised setting proposed by Respondent is approved, in writing, by the Director of OPMC.
 - a. Respondent shall propose an appropriate supervisor or administrator in all practice settings, who shall be subject to the written approval of the Director of OPMC. Respondent shall cause the supervisor or administrator to submit reports, as requested (or quarterly), regarding Respondent's overall quality of medical practice.
 - b. Respondent shall provide the supervisor/administrator in all settings with the Order and terms of probation and shall cause the supervisor/administrator, in writing, to comply with OPMC schedules and requests for information.
 - c. Respondent shall submit semi-annually a signed Compliance Declaration to the Director of OPMC which truthfully attests whether Respondent has been in compliance with the employment setting and required supervision.
2. Respondent shall remain drug/alcohol free.
3. Respondent shall remain active in self help groups such as, but not limited to, Narcotics Anonymous, Alcoholics Anonymous and Caduceus.
4. Respondent shall notify all treating physicians of his history of alcohol/chemical dependency. Respondent shall advise OPMC of any controlled or mood-altering substance given or prescribed by treating physicians.
5. Respondent shall practice only when monitored by qualified health care professionals ("sobriety monitor", "practice supervisor" and "therapist") proposed by Respondent and approved, in writing, by the Director of OPMC. Monitors shall not be family members or personal friends, or be in professional relationships which would pose a conflict with monitoring responsibilities.
6. Respondent shall ensure that the monitors are familiar with Respondent's drug/alcohol dependency and with the terms of this Order. Respondent shall cause the monitors to report any deviation from compliance with the terms of this Order to OPMC. Respondent shall cause the monitors to submit required reports on a timely basis.
7. Respondent shall submit, at the request of a monitor, to random, unannounced observed blood, breath and/or urine screens for the presence of drugs/alcohol. This monitoring will be on a random, seven-days a week, twenty-four hours a day basis. Respondent shall report for a drug screen within four (4) hours of being contacted by the monitor. Respondent shall cause the monitor to report to OPMC within 24 hours if a test is refused or delayed by Respondent or a test is positive for any unauthorized substance.

8. Respondent shall meet with a sobriety monitor on a regular basis who will submit quarterly reports to OPMC certifying Respondent's sobriety. These reports are to include a) forensically valid results of all drug/alcohol monitoring tests to be performed at a frequency of no less than 24 for the first 12 months of the period of probation, then at a frequency to be proposed by the sobriety monitor and approved by OPMC and b) an assessment of self-help group attendance (e.g., AA/NA/Caduceus, etc.), 12 step progress, etc.
9. Respondent shall practice medicine only when supervised in his/her medical practice. The practice supervisor shall be on-site at all locations unless determined otherwise by the Director of OPMC. Respondent shall not practice medicine until a practice supervisor has been approved. Respondent shall ensure that the practice supervisor is in a position to regularly observe and assess Respondent's medical practice. Respondent shall cause the practice supervisor to report within 24 hours any suspected impairment, inappropriate behavior, questionable medical practice or possible misconduct to OPMC.
10. Respondent shall cause the practice supervisor to review Respondent's practice regarding the prescribing, administering, dispensing, inventorying, and disposal of controlled substances.
11. Respondent shall cause the practice supervisor to submit quarterly reports to OPMC regarding the quality of Respondent's medical practice, including the evaluation and treatment of patients, physical and mental condition, time and attendance or any unexplained absences from work, prescribing practices, and compliance or failure to comply with any term of probation.
12. Respondent shall continue in counseling or other therapy with a therapist as long as the therapist determines is necessary, or for the period of time dictated in the Order.
13. Respondent shall cause the therapist to submit a proposed treatment plan and quarterly reports to OPMC certifying whether Respondent is in compliance with the treatment plan. Respondent shall cause the therapist to report to OPMC within 24 hours if Respondent leaves treatment against medical advice, or displays any symptoms of a suspected or actual relapse.
14. Respondent shall comply with any request from OPMC to obtain an independent psychiatric/chemical dependency evaluation by a health care professional proposed by the Respondent and approved, in writing, by the Director of OPMC.
15. Respondent shall comply with all terms, conditions, restrictions, limitations and penalties to which he or she is subject pursuant to the Order and shall assume and bear all costs related to compliance. Upon receipt of evidence of noncompliance with, or any violation of these terms, the Director of OPMC and/or the Board may initiate a violation of probation proceeding and/or any such other proceeding against Respondent as may be authorized pursuant to the law.